

## **Chapter 15.04**

### **TRACKS**

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#### **15.04.010      Railway Tracks to Conform to Grade.**

Every person or corporation operating a steam, electric or other railway, the tracks of which cross the streets or alleys, or occupy a street or alley or any portion thereof of the city, shall keep such tracks at each street or alley crossing, or place where a street or alley, or portion thereof is occupied within the city, and that portion of such street or alley lying between the rails of such tracks, in such condition as to conform with the grade established by the city for such particular street or alley, and the tracks shall, at all times, be kept level with the surface of the street or alley which they cross. (Ord. 3489 §37-101; July 6, 1936).

#### **15.04.020      Resolution Ordering Tracks Brought to Grade.**

All existing railway tracks, together with the surface between the rails thereof, at street or alley crossings, or the place where a street or alley, or portion thereof, is occupied, which are not in conformity with the grade established by the city for the street or alley which such track crosses or occupies, shall be placed to such grade by such person or corporation within such time as the City Council may, by resolution, direct. Upon passage of such resolution, the City Clerk shall immediately deliver, by registered mail or by delivery at any place of business of such person or corporation within the city, a certified copy of such resolution to the person or corporation owning or maintaining such railway tracks. (Ord. 3489 §37-102; July 6, 1936).

#### **15.04.030      Penalty.**

Any such person or corporation that shall neglect or fail to put his or its track, or tracks, or part of such track or tracks, together with the surface between the rails thereof, in the condition required by the provisions hereof, within the time designated, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined \$100.00 for each offense. Each and every day such neglect or failure shall continue shall constitute a separate and distinct offense. In addition to such penalty, the City Council shall have the

right, power, and authority to do the necessary work and furnish the materials therefor to make such tracks conform to the grade at that time established, and if lengthwise in a public way, to make such track level with the surface of the street, and assess all the expense thereof against the person or corporation, to be collected as other taxes, and which shall be a lien upon the property of such person or corporation, or the City of Lincoln may recover such expense in a civil action as the City Council may elect. (Ord. 15654 §20: July 9, 1990: prior Ord. 3489 §37-103: July 6, 1936).

#### **15.04.040      Repair of Viaduct.**

Every person or corporation owning or operating a steam, electric, or other railroad, the tracks of which are under any viaduct on a public way within the city, shall repair and keep in repair such viaduct, together with the viaduct approaches thereto. (Ord. 3489 §37-104; July 6, 1936).

#### **15.04.050      Resolution Ordering Viaduct Repairs.**

Such repairs shall be made in accordance with the plans and specifications of the Department of Public Works and Utilities for the same and under said department's supervision, and shall be made at such times, and within such time as the City Council may, by resolution, direct. Upon passage of such resolution, the City Clerk shall immediately deliver, by registered mail or by delivering to any place of business of such person or corporation within the city a certified copy of such resolution to the person or corporation owning or maintaining such railroad tracks over which such viaduct and viaduct approaches are constructed. (Ord. 3489 §37-105; July 6, 1936).

#### **15.04.060      Penalty for Failure to Repair.**

Any such person or corporation which shall fail, neglect or refuse to repair any such viaduct and viaduct approaches thereto, in accordance with the provisions hereof and within the time designated, as herein provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined \$100.00 and costs for each offense. Each and every day that such neglect shall continue shall constitute a separate and distinct offense. In addition to such penalty, the City Council shall have the power, whenever such person or corporation shall fail, neglect, or refuse to repair such viaduct and viaduct approaches, as herein provided, to make such repairs by contract in the same manner as other public improvements are made and assess the cost thereof against the property of such a person or corporation, and such cost shall be a valid lien against such property, and in the event there are railroad tracks owned by two or more persons or corporations under such viaduct, then and in that event proportionate parts of such cost shall be assessed against the property of each of said persons or corporations, and said assessment shall be a valid lien against such property of each of such persons or corporations; or the cost of such repairs may be collected by the city by an ordinary civil suit against such person or corporation, or persons or corporations, in the proper court. (Ord. 3489 §37-106; July 6, 1936).

#### **15.04.070      Railroad Companies to Pave Between Rails of Tracks on Paved Streets.**

It shall be the duty of all railroad and railway companies which have railroad tracks on paved streets within the corporate limits of the city, to lay and maintain paving on their whole right-of-way on such paved streets so as to make the paving of such right-of-way to be in conformity to the pavement already laid. Such paving shall be of the same material and character as the paving of the streets in which such rights-of-way exist; provided, that, if such material is impracticable for paving railroad crossings, then such

material as is practicable and most nearly conforms to the street paving and has the approval of the Department of Public Works and Utilities, may be used. (Ord. 3489 §37-107; July 6, 1936).

**15.04.080      Notice to Pave.**

Any railroad or railway company, as specified in the next preceding section hereof, shall begin the paving of its right-of-way within sixty days after the date of receiving from the Department of Public Works and Utilities a notice to so pave, and shall proceed to pave its right-of-way as directed in such notice without unreasonable delay until completion. (Ord. 3489 §37-108; July 6, 1936).

**15.04.090      Penalty for Failure to Commence Paving.**

If after the sixty days notice has expired the railroad or railway company shall fail, neglect, or refuse to commence paving its right-of-way as specified in the two preceding sections of this chapter, or after having begun the paving, it shall unreasonably delay the completion of the same, it shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum not to exceed \$100.00, and each day's failure or refusal to begin paving, as aforesaid, and each day's unreasonable delay in completion as aforesaid, shall be deemed a separate offense. (Ord. 3489 §37-109; July 6, 1936).